



**SOUTH
KESTEVEN
DISTRICT
COUNCIL**

Council

30 September 2021

Report of: Councillor Linda Wootten

Cabinet Member for Corporate
Governance



Review of the Council's Constitution

This report sets out the proposed process to be followed for undertaking and implementing a comprehensive review of the Council's Constitution.

Report Author

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Corporate Priority:	Decision type:	Wards:
Administrative	Administrative	All Wards

Reviewed by:	Graham Watts, Deputy Monitoring Officer	3 September 2021
Approved by:	Alan Robinson, Deputy Chief Executive	3 September 2021
Signed off by:	Councillor Linda Wootten, Cabinet Member for Corporate Governance	3 September 2021

Recommendation (s) to the decision maker (s)

That Council:

1. Approves, in principle, the revised format of the Council's Constitution based on seven main sections as set out in paragraph 1.4 of the report.
2. Approves the proposed process to be followed for undertaking and implementing a comprehensive review of the Council's Constitution, commencing with a review of the proposed Responsibility for Functions section, to include Financial Procedure Rules and Contract Procedure Rules.

- 3. Approves the proposed engagement with elected members and senior officers as part of the review, and respective proposed timescales as set out in paragraph 1.10 of the report.**

1 The Background to the Report

- 1.1 The Local Government Act 2000 placed a duty upon Local Authorities operating executive arrangements to maintain a document and ensure that it is available for inspection by members of the public. This should set out how an Authority operates, how decisions are made and the procedures which are followed to ensure that these are efficient, transparent and accountable to local people.
- 1.2 A model Constitution was available for Councils to adopt or use as the basis for their own document which could be amended to reflect aspects or characteristics unique to a particular Local Authority.
- 1.3 Since the initial adoption of South Kesteven District Council's Constitution, a number of subsequent amendments have been made to the document. Unfortunately, over time, there are now a number of inconsistencies, contradictions and areas open for interpretation that need addressing to greatly improve the document and provide a better platform for decision-making and accountability.
- 1.4 An initial review of the Constitution was recently undertaken, further to which a revised format has been proposed which reverts back to that recommended as part of the original model Constitution. This provides a better structure for the document and reduces the number of articles and sections currently included in the Council's Constitution, splitting the document into the following sections:
 - 1) Summary and Explanation
 - 2) Articles of the Constitution
 - 3) Responsibility for Functions
 - 4) Rules of Procedure
 - 5) Codes and Protocols
 - 6) Members' Allowances Scheme
 - 7) Management Structure
- 1.5 Council is asked to agree, in principle, to this revised format as a basis for the comprehensive review of the Constitution.
- 1.6 One of the sections most open to interpretation is that of the Council's scheme of delegation, particularly in relation to its executive decision-making arrangements and which decisions can be taken by Cabinet, individual Cabinet Members or via delegated authority to officers.
- 1.7 It is therefore proposed that the section 'Responsibility for Functions' be the first area of the Constitution subject to comprehensive review.
- 1.8 The basis of reviewing this element of the Constitution will be to establish how the document is currently interpreted from the perspective of Cabinet, individual Cabinet Members, the Council's Corporate Management Team and wider Senior Management Team, together with all elected members of the Council.
- 1.9 The Council's Financial Procedure Rules and Contract Procedure Rules form part of the Constitution and should link with the scheme of delegation, due to the financial thresholds associated with different levels of decision-making that sit within them. To ensure consistency between the new scheme of delegation in relation to executive decision-

making, it is proposed that the Financial Procedure Rules and Contract Procedure Rules be reviewed at the same time as the 'Responsibility for Functions' section of the Constitution.

- 1.10 The review will consist of a range of informal meetings or workshops as part of developing a new 'Responsibility for Functions' section of the Constitution and Financial Procedure Rules and Contract Procedure Rules which will be clear, concise, transparent and easy to follow for anyone reading them. A proposed timetable for this aspect of the review is set out below:

Meeting	Purpose	Timescale
Individual meetings with Corporate Management Team and Senior Management Team	To review the current scheme of delegation	October
Meeting with the Section 151 Officer and Head of Finance	To review the current Financial Procedure Rules/Contract Procedure Rules	October
Meeting with Corporate Management Team	To review the current scheme of delegation and Financial Procedure Rules/Contract Procedure Rules	October
Individual meetings with the Leader and Cabinet Members	To review the scheme of delegation relevant to respective Cabinet Portfolios	October
Individual meetings with Opposition Group Leaders	To review the current scheme of delegation and Financial Procedure Rules/Contract Procedure Rules	October
Informal workshop with Cabinet	To review the outcomes of previous meetings and consider draft versions of revised scheme of delegation and Financial Procedure Rules/Contract Procedure Rules	October/November
Informal workshop with Overview and Scrutiny Committee Chairmen and Vice-Chairmen	To consider draft versions of revised scheme of delegation and Financial Procedure Rules/Contract Procedure Rules	October/November

Informal workshop with Opposition Group Leaders	To consider draft versions of revised scheme of delegation and Financial Procedure Rules/Contract Procedure Rules	October/November
Constitution Committee	To review progress	November
Informal workshop for all Members	To consider draft versions of revised scheme of delegation and Financial Procedure Rules/Contract Procedure Rules	November/December
Constitution Committee	To review the outcomes of the workshop and agree to the submission of proposals to Council	December/January
Council	To consider, in principle, the adoption of a revised Responsibility for Functions section of the Constitution and Financial Procedure Rules and Contract Procedure Rules	27 January 2022
Constitution Committee	To reflect upon the review to date, consider the way in which remaining parts of the Constitution should be reviewed and agree a timetable	February 2022
Council (Annual General Meeting)	To adopt the Council's new Constitution	26 May 2022

- 1.11 These informal meetings or workshops will be an extremely important part of the review, ensuring that all members of the Council are able to contribute to the development of a new 'Responsibility for Functions' section of the Constitution, which will ultimately set out how the Council makes its decisions, together with a revised set of Financial Procedure Rules and Contract Procedure Rules.
- 1.12 Once these aspects of the Constitution have been approved by Council, in principle, the remainder of the document can subsequently be reviewed. In many instances this will be an administrative process in terms of transferring and realigning parts of the existing Constitution into the revised format of the new Constitution, but taking the opportunity to undertake an element of housekeeping in terms of updating out of date information or addressing some contradictions throughout the document.
- 1.13 It is envisaged that a similar process of engagement with members will be followed for the review of these subsequent sections of the Constitution to ensure that all Members are

able to provide an input into the development of a new and improved version of the Council's Constitution which is easy to understand and follow for anyone reading it.

- 1.14 One element of the Constitutional review that will be considered separately by the Constitution Committee and, subsequently, Full Council are proposed changes to the Constitution as part of the Planning Review. Due to the specific nature of the recommendations included as part of the review which require Constitutional amendments, and the respective timetable for implementation, it has been agreed that this will sit outside the scope of the comprehensive review of the Constitution.
- 1.15 It is anticipated that the changes considered as part of the Planning Review will be discussed initially by the Constitution Committee in October, with recommendations to Council being made by the Committee in November. The final version of the Constitution scheduled to be put before Council as a new version of the document at its Annual General Meeting on 26 May 2022 will incorporate any Constitutional amendments agreed by Council in relation to the Planning Review.

2 Consultation and Feedback Received, Including Overview and Scrutiny

- 2.1 Through informal discussions with elected members and officers, there is a clear need to review the Council's Constitution as the current document is unclear, difficult to follow and interpret and includes a number of contradictions which need addressing.
- 2.2 The Constitution Committee met on 19 July 2021 and 13 September 2021 and formally recommended the proposal set out in this report to Council.

3 Available Options Considered

- 3.1 Option 1 - To undertake a comprehensive review of the Constitution but undertake this in sections.
Option 2 - To undertake a comprehensive review of the Constitution in its entirety as a whole document.
Option 3 - To retain the current version of the Constitution.

4 Preferred Option

- 4.1 Option 1 - To undertake a comprehensive review of the Constitution but undertake this in sections, commencing with the 'Responsibility for Functions' section and Financial Procedure Rules/Contract Procedure Rules.

5 Reasons for the Recommendation (s)

- 5.1 The proposed format for the review ensures that necessary engagement with the Council's Corporate Management Team, wider Senior Management Team and Members can take place in order that they can contribute to the meaningful development of a revised Constitution for the Authority.

6 Next Steps – Communication and Implementation of the Decision

- 6.1 The proposed next steps and engagement plan for the review of the Constitution are set out in the body of the report.

7 Financial Implications

7.1 There are no financial implications arising from this report.

Financial Implications reviewed by: Richard Wyles, Section 151 Officer

8 Legal and Governance Implications

8.1 Legal and governance implications are set out in the body of the report.

Legal Implications reviewed by: Graham Watts, Deputy Monitoring Officer

9 Equality and Safeguarding Implications

9.1 There are no equality or safeguarding implications arising from this report.

10 Risk and Mitigation

10.1 The Council's Constitution is the principal document setting out how the Authority operates, how decisions are made and the procedures which are followed. It is essential, therefore, that the document is easy to follow, understand and interpret which this review seeks to achieve.

11 Community Safety Implications

11.1 Not applicable.

12 How will the recommendations support South Kesteven District Council's declaration of a climate emergency?

Not applicable.